troversies. WORKMEN'S COMPENSATION ACT, § 23. And there was no litigation before the Commission. So neither an advisory opinion nor a binding decision could be given by the Appellate Division on the question certified. This case, however, raises an interesting point. If an advisory opinion were given in pursuance of a constitutional provision, could that opinion be reviewed by a higher court? Such opinions are generally given without a hearing and without the aid of research and argument by counsel. However, if the advisory opinions are rendered after the filing of briefs by *amici curiae*, as in the principal case, they might have some judicial authority and so be reviewable. The only objection is that there is no judicial proceeding between parties litigant which the ultimate court is asked to review. See H. A. DUBUQUE, "The Duty of Judges as Constitutional Advisers," 24 AM. L. REV. 369 *et seq.*, for a valuable historical discussion of advisory opinions.

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — CHILD LABOR LAW. — The federal Child Labor Law prohibits the transportation by interstate commerce of certain products of child labor. ACT SEPT. 1, 1916, 39 STAT. 675, c. 432 (COMP. STAT. 1916, §§ 8819 a–8819 f). A bill to enjoin threatened prosecutions of children was brought by their father, who alleged that the act is not a regulation of interstate and foreign commerce and that it contravenes the Fifth and Tenth Amendments to the Constitution. In support of the act the District Attorney relied upon the commerce clause of the Constitution. *Held*, the act is unconstitutional and the order allowing an injunction is affirmed. *Hammer* v. *Dagenhart*, 38 Sup. Ct. R. 529.

For a discussion of this case, see the article by Thurlow M. Gordon, "The Child Labor Law Case," p. 45.

CONSTITUTIONAL LAW — STATE AND FEDERAL JURISDICTION — MILITARY NECESSITY. — A man in the naval service of the United States while acting under orders from a competent authority to proceed with dispatch broke the speed laws of the state. *Held*, that state laws regulating speed upon the highways are subordinate to exigencies of military operations in cases where military necessity exists. *State* v. *Burton*, 103 Atl. 962 (R. I.).

The activities of the navy are within the control of the federal government. U. S. CONST., Art. I, § 8, ¶ 14. Unless clearly illegal on its face the order of a superior officer protects the subordinate. *United States* v. *Clark*, 31 Fed. 710. But it is not *per se* a justification nor is he removed from the jurisdiction of the civil authorities. *Mitchell* v. *Harmony*, 13 How. (U. S.) 115; *Dow* v. *Johnson*, 100 U. S. 158. Control of vehicles upon the highway falls within the police power of the state. *State* v. *Swagerty*, 203 Mo. 517, 102 S. W. 483. But the state cannot interfere with the due exercise of the federal authority. *McCulloch* v. *Maryland*, 4 Wheat. (U. S.) 316. Within its sphere the federal government transcends the police power of the state. *Ohio* v. *Thomas*, 173 U. S. 276. The necessities of war will justify a "private mischief." *Commonwealth of Pa.* v. *Sparhawk*, 1 Dall. (U. S.) 357. Winning the war is paramount to any rules for personal safety. But courts, even when recognizing federal superiority and the right of military authorities in case of military necessity to interfere with private rights, jealously guard their prerogative of judging whether there is such an emergency. *Philadelphia Company* v. *Stimson*, 223 U. S. 603, and cases cited.

CONTRACTS — DEFENSES — PUBLIC POLICY AS A DEFENSE FOR NON-PERFORMANCE. — The defendant refused to perform his part of a contract for a baby show on account of an epidemic of infantile paralysis. *Held*, the defendant was, as a matter of public policy, excused from performance. *Hanford* v. *Conn. Fair Ass'n, Inc.*, 103 Atl. 888 (Conn.).